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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/663,512

09/16/2003

Brian W. Carr

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06/02/2004

ZARLEY LAW FIRM P.L.C.
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES, IA 50309-2350

EXAMINER

TORRES, ALICIA M

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/663,512	Applicant(s) CARR ET AL.	
	Examiner Alicia M Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 9-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. U.S. Patent No. 5,664,402 is not listed in a form PTO-892.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "17" has been used to designate both parallel rows and crop segments. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" has been used to designate both longitudinal alleys and a combine. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:

Page 3, line 6, it appears "alleys 20" should be changed to -alleys 20 and 22—;

Reference numeral "17" has been used to designate both parallel rows and crop segments;

Reference numeral "22" has been used to designate both longitudinal alleys and a combine;

Page 6, line 1, it appears "plate" should be changed to -plot—.

Appropriate correction is required.

Claim Objections

5. Claim 9 is objected to because of the following informalities: it is unclear whether the invention claimed is a method or an apparatus, as "steps" are listed in the body of the claim. Appropriate correction is required.

6. Claim 14 is objected to because of the following informalities: it is unclear as to whether the invention claimed is a method or an apparatus. While it is an apparatus that is disclosed in the preamble, "steps" are recited in the claim and, further, dependent claim 15 is dependent upon the "method of claim 14". Appropriate correction is required.

7. Claim 15 is objected to because of the following informalities: it is dependent upon a method instead of the apparatus of claim 14. Appropriate correction is required.

DETAILED ACTION

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9 and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt in view of Wilson.

10. In regards to claims 9, 12 and 13, Brandt discloses a wheel mounted grain harvester having a grain harvesting head (10) capable of harvesting grain from mature grain plants in a row of mature grain plots comprising a plurality of longitudinal spaced row segments spaced intermittently by aligned alley segments, removing grain from the grain plants in the rows and delivering the removed grain upwardly and rearwardly for deposit in a grain handling assembly (not shown) comprised of a plurality of grain moving parts for delivery of the removed grain to a grain collection hopper, the invention comprising

control means (28) on the harvester for selectively interrupting at least one of the grain moving parts (20, 22) as soon as the last plant in a first row segment is harvested so that no new harvested grain from a second and next adjacent row segment will be commingled with the harvested grain from the first row segment, causing harvested grain from the second row segment to temporarily accumulate adjacent the grain moving part (20, 22) that is temporarily stopped, and selectively restarting the stopped grain moving part after (20, 22) a period while the

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harvesting head is capable of harvesting a first plant in the second row segment, as per claim 9;
and

wherein the period is quantified by time, as per claim 12; and

wherein the period is quantified by distance, as per claim 13.

However, Brandt fails to disclose a means for transporting the harvested grain from separate row segments into separate collection bins to permit the separate evaluation of the harvested grain in each row segment, and

means for moving the harvester along the row at a continuous and constant rate of speed to avoid the necessity of stopping the harvester at each alley to effect the separate evaluation of the harvested grain from aligned separate row segments in all row segments adjacent each alley, as per claim 9.

Wilson discloses a harvester (10) including means for transporting the harvested grain from separate row segments into separate collection bins (26) to permit the separate evaluation of the harvested grain in each row segment, and

means (12) for moving the harvester (10) along the row at a continuous and constant rate of speed to avoid the necessity of stopping the harvester (10) at each alley to effect separate evaluation of the harvested grain from aligned separate row segments in all row segments adjacent each alley, as per claim 9.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the individual bins of Wilson on the harvester of Brandt in order to provide easy handling for the unskilled worker.

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11. In regards to claims 14-19, Brandt discloses a wheel mounted grain harvester having a combine (11) attached to a grain harvesting head (10) capable of harvesting grain from mature grain plants in a row of mature grain plots comprising a plurality of longitudinal spaced row segments spaced intermittently by aligned alley segments, removing grain from the grain plants the rows and delivering the removed grain upwardly and rearwardly for deposit a grain handling assembly comprised of a plurality of grain moving parts for delivery of the removed grain to a grain collection hopper (not shown), the invention comprising:

a movable blocking wall (20, 22) located along the grain handling assembly which blocks the flow of grain along the grain handling assembly when closed,

control means (38) on the harvester selectively closing the blocking wall (20, 22) as soon as the last plant first row segment is harvested so that no new harvested grain from a second and next adjacent row segment will be commingled with the harvested grain from the first row segment, causing harvested grain from the second row segment to temporarily accumulate adjacent blocking wall (20, 22), and selectively opening the blocking wall (20, 22) a period while the harvesting head is capable of harvesting a first plant in the second row segment, as per claim 14; and

wherein the combine straddles a plurality of rows and performs the aforesaid method on each, as per claim 15;

wherein the movable blocking wall (20, 22) is mounted the harvester between a grain transfer assembly (14) and a combine portion (11) of the harvester to periodically interrupt the flow of harvested grain, as per claim 16; and

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wherein the movable blocking wall (20, 22) is mounted on the harvester between a cross auger (14) and the grain transfer assembly (not shown) to periodically interrupt the flow of harvested grain, as per claim 17;

wherein the is period quantified by time, as per claim 18; and

wherein the period is quantified by distance, as per claim 19.

However, Brandt fails to disclose means for transporting the harvested grain from separate row segments into separate collection bins to permit the separate evaluation of the harvested grain in each row segment, and

means moving the harvester along the row at a continuous and constant rate of speed to avoid the necessity of stopping the harvester at each alley to effect separate evaluation of the harvested grain from aligned separate row segments in all row segments adjacent each alley, as per claim 14.

Wilson discloses a harvester (10) including means for transporting the harvested grain from separate row segments into separate collection bins (26) to permit the separate evaluation of the harvested grain in each row segment, and

means (12) for moving the harvester (10) along the row at a continuous and constant rate of speed to avoid the necessity of stopping the harvester (10) at each to alley effect separate evaluation of the harvested grain from aligned separate row segments in all row segments adjacent each alley, as per claim 14.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the individual bins of Wilson on the harvester of Brandt in order to provide easy handling for the unskilled worker.

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12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt and Wilson as applied to claim 9 above, and further in view of Middleton.

The device is disclosed as applied above. However, the combination fails to disclose wherein the grain moving part selectively interrupted by the control means is a set of drag chains for gathering harvested grain downstream of the harvesting head operatively connected to the control means and the power means to selectively be stopped from operating.

Middleton discloses a harvester including a means (142) for selectively interrupting a drag chain (58).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the interruptable chain of Middleton on the harvester of Brandt and Wilson in order to economically activate parts only when necessary.

13. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt and Wilson as applied to claim 9 above, and further in view of Allemeersch et al., hereafter Allemeersch.

The device is disclosed as applied above. However, the combination fails to disclose wherein the grain moving part selectively interrupted by the control means is a cross auger for gathering harvested grain downstream of the harvesting head operatively connected to the control means and the power means to selectively be stopped from operating.

Allemeersch discloses a harvester including means (unnumbered safety clutch) for interrupting the cross auger (31).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the means of Allemeersch on the harvester of Brandt and Wilson in order to stop drive in case of an overload.

Allowable Subject Matter

14. Claims 1-8 are allowed.

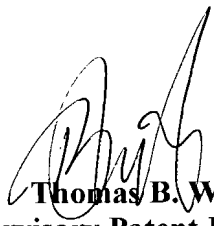
Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Klein, Dillon et al., and Borderle have been cited as of interest.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
May 24, 2004